

California Regional Water Quality Control Board
Santa Ana Region

October 6, 2000

ITEM: 25

SUBJECT: Executive Officer's Report

DISCUSSION:

1. Proposed Federal Regulations Would Regulate Operation of Sanitary Sewer Systems – U.S. EPA is set to publish proposed regulations that would require all operators of sanitary sewer systems to implement Capacity, Maintenance, Operation and Management (CMOM) programs as part of an overall strategy to prevent sewage spills. The CMOM regulations would also prohibit all sewage spills except under the most extreme natural disasters. The thrust of these proposed regulations is to require all sanitary sewer system operators to develop and implement a systematic program of assuring adequate sewer system capacity, comprehensive system maintenance, and consistent operation (including sewage spill response), integrated through an appropriate management structure.

The proposed CMOM regulations have been under development for several years, and for the last year, SWRCB and RWQCB staffs have been monitoring their evolution. SWRCB and RWQCB staff's interest in these rules reflect concern over who will oversee their implementation and enforcement, and the resources necessary to do so. Under these proposed new rules, all sanitary sewer system operators will have to obtain NPDES permits requiring development and implementation of CMOM programs, and compliance with other elements of the rule, e.g., the sewage spill prohibition.

Currently, in the Santa Ana Region, only sewer system operators who discharge treated wastewater are issued NPDES permits. We estimate that the proposed CMOM rules would require us to permit 35 to 40 additional "satellite" sewer system operators. The CMOM permitting strategy is still unclear, but may very well include a combination of a statewide general permit(s) adopted by the SWRCB (similar to the NPDES Storm Water Program), individual NPDES permits, adopted by RWQCBs, and amendments to existing NPDES permits.

Current NPDES permittees are concerned that, under the proposed rules, they could be liable for spills from satellite systems over which they have little, or no, control. Opposition to the outright sewage spill prohibition is also likely.

Santa Ana RWQCB staff have been involved with a number of outreach efforts to familiarize our regulated community with the proposed CMOM rules, including

presentations at workshops held locally. We view the proposed rules positively, but we see them affecting our resources because of the oversight necessary to ensure their successful implementation. We will continue to monitor the evolution of the whole CMOM program.

2. City of Redlands Petition – On April 18, 1997, the Regional Board issued an order (No. 97-11, NPDES No. CA8000388) to the San Bernardino County Special Districts Department for construction and operation of a wastewater treatment facility at the proposed Citrus Plaza Mall. The Mall development is located in the so-called “doughnut hole” area of unincorporated land surrounded by the City of Redlands. The proposed development has a long and involved history, but the specific issue facing the Regional Board was whether the proposed wastewater treatment facility would adversely affect water quality in the area.

The proposed facility would result in two distinct discharges: reclaimed water from the facility would be used over the Bunker Hill III Groundwater Basin and treated wastewater would be discharged directly to Reach 5 of the Santa Ana River. Because of the two aspects of the discharge, a combined order regulating both the reclaimed water and the surface water discharge was proposed by staff and adopted by the Board. The City of Redlands filed a petition with the State Board seeking review of the order.

Meanwhile, the City of Redlands filed suit in San Bernardino County Superior Court challenging the CEQA document prepared by the County and the developer. The trial court agreed with Redlands and ordered the County to set aside its certification of the Supplemental EIR. The County and developers filed a notice of appeal with the Court of Appeal. While the matter was pending on appeal, the County Board of Supervisors voted to rescind its approval of the underlying project and made a motion to dismiss the appeal as moot. The court granted that motion on April 8, 1999 and the case is no longer pending in the courts.

The City of Redlands has asked that the Regional Board rescind its approval of the order it adopted in 1997. There are two aspects to that request. First, the NPDES aspects of the order deal with the surface water discharge and are governed by federal law. Rescission of that portion of the order must comply with federal regulations and staff has informed the City that it can find no basis in those regulations for taking such an action. Second, the reclamation portions of the order are governed by state law and the City claims that the court's order with regard to CEQA combined with the later action by the Board of Supervisors require the Board to rescind that portion of the order. It is not known at this time what the position of the County or the developer will be in that regard. Staff intends to schedule this matter for consideration by the Board at the November 17 meeting, so that all interested parties can present their arguments on the issue.

3. Yorba Linda/East Anaheim Area MtBE Contamination – Regular monitoring of Orange County drinking water wells has revealed MtBE in three water supply wells in the Yorba Linda / East Anaheim area. These wells are owned and operated by Southern California Water Company. One of the wells, Concerto #2, is an active well, while the other two, Concerto #1 and Ballard, are inactive. The active well, Concerto #2, serves approximately 6000 customers in the Yorba Linda area and has shown MtBE concentrations of between 2 and 4 parts per billion over the past three years. The two inactive wells are screened across a relatively shallow interval and have shown MtBE concentrations ranging from 15 to 50 parts per billion. The State's secondary Maximum Contaminant Level for MtBE, based on taste and odor, is 5 ppb. The Southern California Water Company considers Concerto #2 to be the sole source of water for its Yorba Linda customers. Although potential emergency tie-ins are available at greatly increased cost and alternative sources are being pursued, no long-term contingency agreements are presently in place. Southern California Water Company has indicated that they plan on shutting off Concerto #2 if the MtBE concentrations rise above 5 ppb.

Currently, the source of the MtBE is unknown. There are three service stations situated upgradient of the Concerto wellfield. These three stations are operated by three separate oil companies (Texaco, ARCO, and Tosco (Unocal)) and are located between 2500 and 3000 feet away. All three stations have reported releases of gasoline. Other operators of underground storage tanks in this vicinity were required to install a groundwater monitoring well to confirm the condition of the groundwater beneath their tanks, but none of these smaller tank operators found any contamination at their sites.

On August 24, 2000, a meeting was held with representatives of the three oil companies, the Southern California Water Company, the Orange County Water District, the City of Anaheim Public Utilities, the Orange County Health Care Agency and Board staff. At this meeting, Board staff encouraged, under threat of a cleanup and abatement order, the three oil companies to work jointly to complete an area-wide hydrologic study of the area around the Concerto wellfield within the next twelve months. This area-wide hydrologic study is to determine the extent, distribution, and the source of the MtBE contamination. At a meeting held on September 13th, the oil companies responded positively, having hired an environmental consultant to spearhead this accelerated effort. Staff will be closely overseeing this investigation, and if the work does not proceed expeditiously, we will schedule a cleanup and abatement order for consideration by the Board.

4. Caulerpa Taxifolia in Huntington Harbour – An infestation of *Caulerpa taxifolia*, an invasive marine alga recently discovered in Agua Hedionda Lagoon, San Diego County, has been found in a pond located off Huntington Harbour. San Diego Regional Board staff partnered with Federal, State, and local agencies to form the Southern California Caulerpa Action Team (SCCAT) to undertake eradication of the *Caulerpa* infestation in Agua Hedionda Lagoon. Santa Ana Region Nonpoint Source staff and the Task Force are now involved in an emergency effort to promptly and

effectively eradicate the *Caulerpa* in one of two ponds owned by Westchester Bay Seagate Lagoons Homeowners Association.

This alga presents a long-term threat to the entire coastal marine ecosystem of California. A similar strain of *Caulerpa*, which is a tropical marine alga, has caused devastation in the Mediterranean. The presence of *Caulerpa* within the colder waters of San Diego and Orange Counties is an indication that it can readily tolerate temperatures as low as 50 °F. It is known that *Caulerpa* can grow to depths as great as 350 feet and can completely cover any kind of substrate (rock, cobble, sand, or mud), replacing the native plant growth and thereby seriously affect fish and other animal species. Unless promptly and successfully eradicated, control of the alga may be impossible.

Board staff, along with the California Department of Fish and Game, San Diego Regional Board staff, and a biological consultant facilitated a special meeting with the Westchester Bay Seagate Lagoons Homeowners Association on August 20, 2000. The Association was fully informed of the problem and its implications, the proposed eradication methods (including the expected short- and long-term effects), and the expected timetable for these efforts. We also responded to questions and concerns, and committed to notifying them of all tasks accomplished. The meeting was successfully concluded with full consensus from the Association to eradicate the alga. The eradication efforts are expected to begin within the next two weeks and will take approximately 4-6 weeks to complete. Site monitoring will be needed periodically to insure that the alga has been fully eradicated from the pond. Board staff has already begun a public education campaign to disseminate information on the *Caulerpa* eradication program.

I have requested \$100,000 from the State Board's Emergency Cleanup and Abatement Account (CAA) to initiate the eradication effort in Huntington Harbour. Merkel and Associates (M&A), a local environmental consulting firm, will be contracted to facilitate the response. Unfortunately, the total cost of eradication is expected to exceed \$200,000, so it is possible that staff will need to request that the Regional Board solicit additional funds from the CAA. It is anticipated that this alga will be found at other sites in California in the near future, and prompt eradication will also be necessary in those locations. A comprehensive prevention and response plan will ultimately be needed to successfully keep this highly invasive marine alga from becoming permanently established in California.

5. Widening Project for SR 74 between Lake Elsinore and Interstate 215 – On September 12th, staff met with the director of the Riverside County Transportation Commission, Riverside County Transportation staff, and Caltrans staff to discuss this proposed transportation project to widen and straighten approximately 8 miles of 2-lane roadway. Riverside County staff requested this meeting in an effort to identify how the Board's concerns with the generation of storm water pollutants within the watersheds of Lake Elsinore and Canyon Lake (both impaired water bodies) might affect the progress of this project. County staff have been active participants in the workshops, held by

both Regional Board staff and the Regional Board, related to a proposed general construction storm water permit for the San Jacinto watershed. They have been very concerned with the possibility that storm water control and water quality monitoring requirements, beyond those required by the statewide general storm water permit, will be necessary to protect these impaired water bodies.

Since this is a state route highway, Caltrans is actually the project sponsor for this widening project and would be the holder of the construction storm water permit. As such, Regional Board staff indicated that we believe the project should basically be regulated under the statewide Caltrans general storm water permit. However, because of the potential to affect impaired water bodies, staff would also propose to require that storm water monitoring be implemented during and after the construction, and that storm water pollution prevention plans be submitted for approval prior to the initiation of construction activities. After discussing our ideas for project water quality monitoring and after learning that the review time for these documents would be quite short, Caltrans and Riverside County staff were optimistic that their schedule could accommodate the water quality measures we discussed. We indicated that submittal of high quality drafts would be the key to quick turnaround of documents, and the participants recognized this link.

Gerard J. Thibeault
Executive Officer